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09/967,070	09/28/2001	Russell Pond	042933/299757	4895

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ALSTON & BIRD LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE, NC 28280-4000

EXAMINER
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STEPHEN, EMEM O

ART UNIT	PAPER NUMBER
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2617

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/967,070	<b>Applicant(s)</b> POND, RUSSELL	
	<b>Examiner</b> EMEM EKONG	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-10, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,507,735 B1 to Baker et al. (Baker) in view of Akahane.

Regarding claims 1, and 10 Baker discloses a system and method for transmitting short voice message service (col. 1 lines 6-10) messages to an intended

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recipient through a radio communication network (col. 1 lines 6-10), said system comprising: a first communication station (see figure1), and an SVMS-MSC for receiving the packetized SVMS message and storing it until it can be transmitted to the intended recipient (col. 3 lines 14-21), the SVMS-MSC being configured to determine whether the intended recipient is capable of receiving the SVMS message prior to transmission of SVMS message (col. 3 lines 1-24). However, Baker fails to specifically disclose a first communication station, comprising: a packet-data generator for converting an SVMS message into a packet-data format for transmission; and a storage device for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC.

Akahane discloses further discloses a packet-data generator for converting an SVMS message into a packet-data format for transmission (packet data generator 37), the SVMS message being defined as a message including packetized voice data configured to be deliverable to a plurality of recipients as a result of a single transmission from the first station (col. 6 line 40-col. 7 line 21, communication of a messages from a first station is not limited to only one recipient, therefore, communication of a messages to a plurality of recipient is inherent); and a storage device (memory 35) for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC (i.e. network switching control center) (see figure 3, col. 2 line 60-col. 3 lines 14, and col. 6 lines 17-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Baker with Akahane, and have a packet-data generator for converting an SVMS message into a packet-data format for

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transmission; and a storage device for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC for the purpose of converting the message into an appropriate format for transmission.

Regarding claim 2, the combination of Baker and Akahane discloses the system of claim 1, further comprising a microphone in the first communication station for receiving an audio input, converting it into electronic signals, and providing the electronic signals to the packet-data generator (col. 3 lines 60-67).

Regarding claim 3, the combination of Baker, and Akahane discloses the system of claim 1, further comprising a text to speech converter in communication with the first communication station for converting a text file into digital audio form and providing the digital audio signal to the packet-data generator (Baker col. 3 lines 62-67).

Regarding claim 4, the combination of Baker, and Akahane discloses the system of claim 1, wherein the intended recipient is a mobile telephone, and said system further comprises a home location register (HLR) for storing information regarding the mobile telephone (Baker, see figure 1, and col. 2 lines 63-65).

Regarding claim 5, the combination of Baker, and Akahane discloses the system of claim 4, wherein the SVMS-MSC queries the HLR to determine if the mobile telephone is SVMS capable (Baker, col. 2 lines 62-66).

Regarding claims 6 and 8, the combination of Baker, and Akahane discloses the system of claim 5, wherein the SVMS- MSC, upon receiving a response from the HLR indicating that the mobile telephone is not SVMS capable, delivers the SVMS message by an alternate delivery method (Baker, col. 2 line 62-col. 3 line 5).

Regarding claim 7, the combination of Baker, and Akahane discloses the system of claim 5, further comprising a voice-mail server (means for storage) in communication with the SVMS-MSC and accessible to the subscriber, and wherein the alternate delivery method includes storing the SVMS message as a voice-mail message on the voice-mail server (Baker, col. 3 lines 1-24).

Regarding claim 9, the combination of Baker, and Akahane discloses the system of claim 1, wherein the first communication station is connectable to the Internet such that the SVMS message may be transmitted to the SVMS-MSC through the Internet (Baker, see fig. 1, telephone network 21).

Regarding claim 15, the combination of Baker, and Akahane discloses the method of claim 10, wherein directing transmission of the SVMS message comprises transmitting the SVMS message to a voice-mail server for storage (Baker, col. 3 lines 14-18).

Regarding claim 16, the combination of Baker, and Akahane discloses the method of claim 15, further comprising sending to the target station a notification that the SVMS message was transmitted to a voice-mail server (Baker, col. 4 lines 3-11).

5. Claim 10, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of International Publication No. 99/41922 to Souhad et al. and further in view of US Patent No. 5,724,410 to Parvulescu et al.

Regarding claims 10, and 19, Baker discloses a method and apparatus of enabling the transmission of an SVMS message from an originating station to a target station through a wireless telecommunication network (col. 1 lines 6-10), said method

comprising the steps of: receiving an SVMS message in packet-data format in an SVMS server; storing the SVMS message in a data storage device in (col. 3 lines 14-22, and col. 4 lines 4-6); determining a transmission path to the target station for delivering the SVMS message; and transmitting the SVMS message (col. 3 lines 19-24).

However, Baker fails to disclose storing the message in a data storage device in communication with the SVMS server.

Souhad et al. discloses storing the message in a data storage device in communication with the SVMS server (page 5 lines 11-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Baker with the communication system of Souhad et al. for the purpose of storing voice message for future retrieval.

However, Souhad fails to disclose determining whether the target station is capable of receiving the SVMS message; and directing transmission of the SVMS message in response to a determination that the target station is capable of receiving the SVMS message. Parvulescu discloses determining whether the target station is capable of receiving the SVMS message; and directing transmission of the SVMS message in response to a determination that the target station is capable of receiving the SVMS message (abstract, and col. 2 lines 10-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Souhad with Parvulescu such that a determination is made as to whether the target station is capable of receiving the SVMS message; and directing transmission of the SVMS message in response to a determination that the target station is capable

of receiving the SVMS message for the purpose of message storage for forwarding at a later time of recipient's availability and only producing a SVMS upon determination that the target station is SVMS capable.

6. Claim 11-12, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Souhad et al. and further in view of Parvulescu and further in view of U.S Patent No. 6891811 B1 to Smith et al. (Smith).

Regarding claims 11-12, 17, and 18, the combination of Baker, Souhad et al., and Parvulescu et al. discloses the method of claim 10, comprising the step of verifying delivery of the SVMS message to the target station; and further comprising the step of sending a delivery confirmation notice to the originating station, upon verifying delivery (col. 3 lines 1-24). However, the combination fails to disclose further wherein the SVMS message is received from an SVMS portal; and wherein the SVMS portal is a World Wide Web site accessible by subscribers to direct that an SVMS message be generated upon the occurrence of a certain event.

Smith discloses verifying delivery of the SVMS message to the target station; and further comprising the step of sending a delivery confirmation notice to the originating station, upon verifying delivery (col. 3 lines 59-65); further comprising the step of determining if the target station is SVMS capable (col. 3 line 66-col. 4 line 14); wherein the step of transmitting comprises transmitting the SVMS message to the target station upon determining that the target station is SVMS capable (col. 4 line 15-35), Smith further discloses wherein the SVMS message is received from an SVMS portal; and wherein the SVMS portal is a World Wide Web site accessible by subscribers to direct



that an SVMS message be generated upon the occurrence of a certain event (see figure 2, and col. 6 line 46-col. 7 line 41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination with the communication system of Smith for the purpose of confirming transmission of message.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over International Publication No. 99/41922 to Souhad et al. in view of US Patent No. 5,724,410 to Parvulescu et al.

Regarding claim 20, Souhad et al. discloses an apparatus (page 4 lines 34-35) for receiving short voice message service messages from an originating station through a wireless telecommunication network (abstract, and page 1 lines 12-15), said apparatus comprising: a packet-data generator for converting an SVMS message into a packet-data format for transmission (page 3 lines 1-3, and page 8 lines 2-10), the message being defined as a message including packetized voice data (page 5 lines 3-9, page 8 lines 2-10) configured to be deliverable to a plurality of recipients as a result of a single transmission from the originating station (page 4 lines 21-28, page 5 lines 24-25); and a storage device (page 5 lines 11-15) for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC. However, Souhad fails to disclose wherein the SVMS message is deliverable to the target station in response to a determination that the target station is capable of receiving the SVMS message. Parvulescu discloses wherein the SVMS message is deliverable to the target station in response to a

determination that the target station is capable of receiving the SVMS message (abstract, and col. 2 lines 10-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Souhad with Parvulescu such that the SVMS message is deliverable to the target station in response to a determination that the target station is capable of receiving the SVMS message for the purpose of message storage for retrieval at a later time and only producing a SVMS upon determination that the target station is SVMS capable.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,881,104 to Akahane in view of US Patent No. 5,724,410 to Parvulescu et al.

Regarding claim 21, Akahane discloses an apparatus for receiving short voice message service messages (short voice message service is similar to voice message service, short voice message instead of voice message) from an originating station through a wireless telecommunication network (abstract), said apparatus comprising: a receive circuitry (see figure 6) configured to receive an SVMS message in a packet-data format (col. 6 lines 37-39), the message being defined as a message including packetized voice data configured to be deliverable to a plurality of recipients as a result of a single transmission from the originating station (col. 6 line 40-col. 7 line 21, communication of a messages from a station is not limited to only one recipient, therefore, communication of a messages to a plurality of recipient is inherent); and a storage device (memory 55) for electronically storing at least a portion of the SVMS message prior to presenting the SVMS message (col. 6 line 52-53); and packet

disassembly circuitry (i.e. unpacketer, data decompressor) to receive the SVMS message in the packet-data format and to process the SVMS message into a digital data format (col. 6 line 40-col. 7 line 24).

However, Akahane fails to disclose the apparatus is configured to receive that SVMS message in response to a determination that the apparatus is capable of receiving the SVMS message. Parvulescu discloses the apparatus is configured to receive that SVMS message in response to a determination that the apparatus is capable of receiving the SVMS message (abstract, and col. 2 lines 10-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Souhad with Parvulescu such that the SVMS message is received in response to a determination that the apparatus is capable of receiving the SVMS message for the purpose of message storage for retrieval at a later time when available, converting to a compatible protocol, and only producing a SVMS upon determination that the target station is SVMS capable.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMEM EKONG whose telephone number is 571 272 8129. The examiner can normally be reached on 8-5 Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571 272 7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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LESTER G. KINCAID  
SUPERVISORY PRIMARY EXAMINER